

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

JOHN FITZGERALD

PLAINTIFF

VERSUS

CIVIL ACTION NO. 4:03cv107-P-D

**EQUICREDIT CORPORATION OF AMERICA;
BANK OF AMERICA CORPORATION
NATIONSCREDIT FINANCIAL SERVICES
CORPORATION; WHOLESALE MORTGAGE,
INC.; AND MORTGAGE STOP, INC.**

DEFENDANTS

ORDER APPROVING CORRESPONDENCE FROM CLAIMS ADMINISTRATOR

THIS CAUSE having come on to be heard this day, on the *Motion for Order Approving Correspondence from Claims Administrator* [238-1], filed by the Defendants, EQUICREDIT CORPORATION OF AMERICA, BANK OF AMERICA CORPORATION AND NATIONSCREDIT FINANCIAL SERVICES CORPORATION (collectively, the “EquiCredit Defendants”), requesting that the Court enter its order approving certain proposed correspondence to be sent to Class members from the Claims Administrator pursuant to the requirements of the Settlement Agreement and the prior orders of this Court, and the Court, having considered the Motion and the evidence and testimony adduced in support thereof and being fully advised in the premises, hereby finds that the Motion is well taken and should be granted, and further finds and adjudicates as follows:

1. The procedural history of this matter through December 16, 2005 has been set forth in prior orders of this Court, including without limitation, the Order of Preliminary Approval dated November 29, 2004 (the “Preliminary Approval Order”) [Docket No. 55-1]; the Order Certifying Settlement Class, Approving Class Action Settlement and Awarding Attorneys’

Fees dated June 7, 2005 (the “Final Approval Order”) [Docket No. 108-1]; the Order Denying Motion to Amend/Correct dated June 23, 2005 regarding distribution of attorney’s fees and expenses to Class Counsel [Docket No. 112-1]; the Order granting Motion to Amend/Correct dated July 19, 2005, likewise related to the distribution of Class Counsel’s attorney’s fees and expenses [Docket No. 115-1]; the Order Granting Partial Distribution of Attorneys’ Fee Award dated August 8, 2005 [Docket No. 120-1]; the Order Granting Motion to Authorize the Payment of Class Representative Fees dated August 8, 2005 [Docket No. 121-1]; the Order Granting Extension of Deadline for Filing Claims dated September 6, 2005 [Docket No. 123-1]; the Order Denying Motions as Moot dated September 22, 2005 [Docket No. 124-1]; the Order Approving Partial Distribution of Attorneys’ Fee Award dated December 8, 2005 [Docket No. 228-1]; and the Order Judicially Determining that Certain Borrower Class Members Have Abandoned Their Payee Subclass Claims dated December 16, 2005 (the “First Judicial Determination of Abandonment Order”) [Docket No. 230-1], all of which are incorporated herein by reference.

2. The Settlement Agreement and the prior orders of this Court require that the Claims Administrator give certain notices to members of the Borrower Class and the Payee Subclass, explaining their relief and redress. The parties to this litigation have prepared the proposed form of letters for use by the Claims Administrator and have sought the approval of the Court of the forms of such correspondence as is more fully described below.

3. **Exhibit P** to the Motion is a letter from the Claims Administrator explaining what relief each member of the Borrower Class will receive. **Exhibit Q** to the Motion is a letter from the Claims Administrator explaining what relief each member of the Payee Subclass will receive. **Exhibit R** to the Motion is a letter from the Claims Administrator explaining to each member of the Payee Subclass who has filed a bankruptcy proceeding that their relief has been

sent to their Trustee. **Exhibit S** to the Motion is a letter from the Claims Administrator to be sent to the Trustees in the bankruptcy proceedings filed by certain of the members of the Payee Subclass for the purpose of advising those Trustees of the relief that is being provided to said members. **Exhibit T** to the Motion is a letter from the Claims Administrator to be sent to persons with whom the EquiCredit Defendants reached a settlement of their claims related to this class action, which is proposed to be sent along with the settlement compensation for each such person. **Exhibit U** to the Motion is a letter from the Claims Administrator explaining to persons with whom the EquiCredit Defendants reached a settlement of their claims related to this class action and who have filed a bankruptcy proceeding that their relief has been sent to their Trustee. **Exhibit V** to the Motion is a letter from the Claims Administrator to be sent to the Trustees in the bankruptcy proceedings filed by certain of the persons with whom the EquiCredit Defendants reached a settlement of their claims related to this class action for the purpose of advising those Trustees of the relief that is being provided to said persons. **Exhibit W** to the Motion is a letter from the Claims Administrator explaining what relief each member of the 50% Group will receive. **Exhibit X** to the Motion is a letter from the Claims Administrator explaining to each member of the 50% Group who has filed a bankruptcy proceeding that their relief has been sent to their Trustee. **Exhibit Y** to the Motion is a letter from the Claims Administrator to be sent to the Trustees in the bankruptcy proceedings filed by certain of the members of the 50% Group for the purpose of advising those Trustees of the relief that is being provided to said members. **Exhibit Z** to the Motion is a letter from the Claims Administrator to those persons who were excluded from the Borrower Class which explains the reasons for the exclusions. **Exhibit AA** to the Motion is a letter from the Claims Administrator to be sent to those persons whose Payee

Subclass claims were arbitrated and which advises them of the results of their respective arbitrations.

3. The parties have requested that this Court approve the form and substance of these letters.

4. This Court hereby finds and determines that Exhibits P through AA, inclusive, will provide adequate notice to the persons to whom they are addressed regarding the subject matter of the proposed letters, and hereby approves the same, and authorizes the Claims Administrator to use substantially the form of the letters attached to the Motion for the purposes.

Based upon the foregoing findings and conclusions, and for good cause appearing,

IT IS, THEREFORE, ORDERED:

- (1) That the letter set forth in Exhibit P is hereby approved.
- (2) That the letter set forth in Exhibit Q is hereby approved.
- (3) That the letter set forth in Exhibit R is hereby approved.
- (4) That the letter set forth in Exhibit S is hereby approved.
- (5) That the letter set forth in Exhibit T is hereby approved.
- (6) That the letter set forth in Exhibit U is hereby approved.
- (7) That the letter set forth in Exhibit V is hereby approved.
- (8) That the letter set forth in Exhibit W is hereby approved.
- (9) That the letter set forth in Exhibit X is hereby approved.
- (10) That the letter set forth in Exhibit Y is hereby approved.
- (11) That the letter set forth in Exhibit Z is hereby approved.
- (12) That the letter set forth in Exhibit AA is hereby approved.

SO ORDERED on this, the 27th day of March, 2006.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE